
ENGROSSED

SENATE BILL No. 387

DIGEST OF SB 387 (Updated February 17, 1998 12:26 pm - DI 69)

Citations Affected: IC 13-21; noncode.

Synopsis: Provision of services in a solid waste district. Restricts the powers of a solid waste management district concerning control over collection or disposal of solid waste and recyclables. Exempts household hazardous waste projects from those restrictions. Provides that the act does not apply to contracts executed before April 1, 1998. Allows the executives of certain cities in Lake County who are members of a solid waste management district board of directors to appoint a member of the legislative body of their cities to serve as the member of the board.

Effective: July 1, 1998.

Gard

(HOUSE SPONSORS — STURTZ, WOLKINS)

January 12, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.

January 29, 1998, amended, reported favorably — Do Pass.

February 2, 1998, read second time, ordered engrossed. Engrossed.

February 3, 1998, read third time, passed. Yeas 31, nays 18.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Environmental Affairs.

February 17, 1998, amended, reported — Do Pass.

SEA 387—Concur+



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Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE ENROLLED ACT No. 387

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 13-21-3-5, AS ADDED BY P.L.1-1996, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) Except as provided in subsections (b) through (d), the board of a county district consists of the following members:

- (1) Two (2) members appointed by the county executive from the membership of the county executive.
- (2) One (1) member appointed by the county fiscal body from the membership of the fiscal body.
- (3) One (1) member:
 - (A) who is the executive of the municipality having the largest population in the county if that municipality is a city; or
 - (B) appointed from the membership of the legislative body of a town if the town is the municipality having the largest population in the county.
- (4) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.
- (5) One (1) member:
 - (A) who is the executive of a city in the county that is not the

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municipality having the largest population in the county; or
 (B) who is a member of the legislative body of a town that is not the municipality having the largest population in the county;

and who is appointed by the executive of that county to represent the municipalities in the county other than the municipality having the largest population.

(6) One (1) additional member appointed by the county executive from the membership of the county executive.

(b) If a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is designated as a county district, the executives of the three (3) cities in the county having the largest populations each serve as a member of the board **or may appoint a member of the legislative body of their city to serve as a member of the board.** If a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) is designated as a county district, the executives of the two (2) cities in the county having the largest populations each serve as a member of the board. If a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) is designated as a county district, the board of that county district must include the following:

(1) One (1) member of the legislative body of the city having the second largest population in the county, appointed by the president of the city legislative body.

(2) One (1) member of the legislative body of a town located in the county, appointed by the judge of the circuit court in the county.

(c) If a county having a consolidated city is designated a county district, the board of public works established under IC 36-3-5-6 constitutes the board of the county district.

(d) If a county designated as a county district has a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the board of the district consists of the following members:

(1) One (1) member appointed by the county executive from the membership of the county executive.

(2) Two (2) members appointed from the county fiscal body appointed from the membership of the county fiscal body.

(3) The executive of each second or third class city **or a member of the legislative body of their city appointed by the executive.**

(4) One (1) member of the legislative body of each town

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appointed by the legislative body.

(5) One (1) member of the legislative body of the municipality with the largest population in the county appointed by the legislative body of that municipality.

(6) If a local government unit in the county has an operating final disposal facility located within the unit's jurisdiction, one (1) member of the unit's board of public works appointed by the board of public works.

SECTION 2. IC 13-21-3-14, AS ADDED BY P.L.125-1996, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 14. (a) **Except as provided in subsection (c) and section 14.5 of this chapter**, the powers of a district do not include the following:

(1) The power of eminent domain.

(2) Except as provided in subsection (b), the power to exclusively control the collection or disposal of **any** solid waste ~~and~~ or recyclables within the district **by means that include the following:**

(A) **Franchising.**

(B) **Establishing a territory or territories within the district in which a person may provide service.**

(3) **The power to establish the type of service that a person must provide for the collection or disposal of solid waste or recyclables within the district.**

(4) **The power to establish fees that a person must charge for the collection or disposal of solid waste or recyclables within the district.**

(b) If one (1) or more of the governmental entities in a district, at the time of the formation of the district, is a party to a contract providing that the persons contracted with have the exclusive right to collect or dispose of solid waste within the jurisdiction of the governmental entity, the district may enter into an extension of that contract.

(c) Subsection (a) does not apply to activities conducted as part of a household hazardous waste collection and disposal project.

SECTION 3. IC 13-21-3-14.5, AS ADDED BY P.L.125-1996, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 14.5. (a) This section does not apply to the following:

(1) The continuation of waste management services that a solid waste district provides with its facilities or work force before March 15, 1996.

(2) Waste management services provided to the district under an

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agreement entered into by the district before March 15, 1996, with another person until the agreement terminates by its terms or is terminated for cause.

(3) The development, operation, and contracting for the development or operation of a publicly owned solid waste landfill in a county having a population of more than one hundred seven thousand (107,000) but less than one hundred eight thousand (108,000). The operation of the landfill must have begun before July 1, 2001.

(4) A contract entered into between the board and a third party before May 1, 1997, for the development or operation of a solid waste landfill in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The third party is limited to those parties that submitted proposals to the board under a formal request for proposals that were selected by the board, before December 1, 1995, as finalists in the contract negotiations.

(5) A contract between a board and a third party to operate a facility that is owned by the district and for which construction was substantially complete before March 1, 1996.

(b) Except as provided in subsection (c), a district may not:

- (1) undertake to provide waste management services by means of its own work force; or
- (2) contract with any person to provide ~~solid~~ waste management services.

(c) A district may perform the activities described in subsection (b), if:

- (1) the board is able to adopt a resolution under subsection (d); and
- (2) a private sector entity is not willing or able to provide waste management services at a reasonable cost to the district or if requested to do so by a unit of government that performs the activities with the unit's work force.

(d) The board may adopt a resolution determining that the district must either provide ~~solid~~ waste management services by means of its own work force or contract with a person to provide ~~solid~~ waste management services, only if the board finds that:

- (1) the ~~solid~~ waste management service is not currently available in the district at a reasonable cost; and
- (2) providing the ~~solid~~ waste management service by means of its own work force or by contract will benefit the public health, welfare, and safety of residents of the district.



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The board's determination must be supported with findings of fact.

(e) A district shall provide notice by publication under IC 5-3-1 and **at the time of publication serve by** first class mail to any person that delivers to the district an annual written request for notices before January 1 of any meeting to consider adoption of a resolution making a preliminary determination that it is necessary for the district to undertake to provide ~~solid~~ waste management services by means of its own work force or contract with any person to provide ~~solid~~ waste management services.

(f) Whenever a district evaluates the reasonableness of cost under this section, it shall:

- (1) compare the cost of the same level of service provided in the district or in similar demographic areas within Indiana; and
- (2) if ~~it~~ **the district** wishes to provide ~~the service~~ **waste management services** with its own facilities or work force, **the district must** disclose the entire cost of providing the service by the district, including the following:

- (A) subsidies arising from taxes, fees, grants, or intergovernmental transfers;
- (B) in-kind contributions of real estate, interests in real estate, equipment, personnel, or other assets;
- (C) discounts; and
- (D) tax exemptions.

SECTION 4. [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]:
IC 13-21-3-14 and IC 13-21-3-14.5, as amended by this act, do not apply to a contract executed before April 1, 1998.

SECTION 5. An emergency is declared for this act.

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